

Remarks:

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claim 191 has been amended. (Support for the amendments can be found at least in Figs. 1, 3, 43, and 44). Claim 192 is currently cancelled. Claims 1-147, 149-151, 156, 168, 170-178, and 180-186 have previously been cancelled. No new claims have been added. No new matter has been added. Accordingly, Claims 148, 152-155, 157-160, 164-166, 169, 179, 187-191, 193-197, 201-203, and 205-218 (49 claims) will be pending in the present application upon entry of this reply and amendment.

A detailed listing of all the claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

Claim Rejections – 35 U.S.C. § 112

On page 2, para. 3 of the Office Action, the Examiner has rejected Claims 191 and 192 under 35 U.S.C. § 112, second paragraph as being indefinite. The Examiner states that Claims 191 and 192 recite limitations "having a distal portion coupled to said sheet of web material near a portion of said hood most distal from said first panel." This limitation is not clear as to whether "its" refers to the backing strip or to the skirt structure... ." Also, it is noted that the limitation "near the portion of said hood" is a relative term since it is not clear as to what can be considered near. These claims are also unclear as to what is considered "most distal."

In response, the Applicants have amended Claim 191 and has cancelled Claim 192. Limitations of Claim 192 have been incorporated into amended Claim 191. Additional support for the amendment can be found at least in Figs. 43 and 44.

For further clarification, Applicants submit that as amended Claim 191, which depends from Claim 190 which in term depends from independent Claim 187, further

defines the structure of the reclosable bag as illustrated at least in Figs. 43 and 44. The backing strip 320 extends below a lower portion of the inside surface 17 of the skirt structure 16 (as seen in Figs. 43 and 44 the backing strip 320 is attached to the right portion of the skirt structure). The backing strip is also adhesively joined to the inside surface 17 of the skirt structure 16. The skirt structure 16 has a lower portion coupled to said sheet of web material that makes up the portion of the hood 11 most distal from the first panel 35 as shown in Fig. 44. The first panel 35 is on the left side of the Figures and the right side portion of the hood 11 where the skirt structure 16 is attached is the "most distal" or furthestest from the first panel 35. The terms "most distal" indicates furthest away as would be understood by one ordinarily skilled in the art. Further, the backing strip 320 has a lowed portion 322 which is coupled to the second panel 36 of the sheet of web material. Further support for the amendment to Claim 191 can be found at least on pages 44, line 5 through page 47, line 10 of the Specification as originally filed.

Accordingly, Claim 191, as amended, is definite and in compliance with 35 U.S.C. § 112, para. 2. Applicants respectfully request withdrawal of the rejection of Claim 191 under 35 U.S.C. § 112, para. 2.

The Applicants note that the claim amendment described above is intended to clarify the language used in the amended claim, and is in no way intended as limiting or to obtain patentability of such claim. Accordingly, it is believed by the Applicants that the amendment made to the claim in no way impairs the ability of the Applicants to obtain the full scope of such claim as may be available under the Doctrine of Equivalents.

Claim Rejections - 35 U.S.C. § 103

On page 3, para. 6 of the Office Action, the Examiner has rejected Claims 148, 152-155, 157-160, 164-166, 169, 179, 187-190, 193-197, 201-203, and 205-218 under 35 U.S.C. § 103(a) as being unpatentable over Buchman et al. (US Patent Pub. No. 20010053253) in view of Stolmeier et al. (US Patent No. 6,257,763), McMahon (US

Patent No. 6,138,439) and in further view of Belmont et al. (US Patent No. 6,327,754), Weeks (US Patent No. 5,092,684), Provan (US Patent No. 6,286,189), May (US Patent No. 5,725,312), and Malin (US Patent No. 6,183,134).

Response to Paragraph 6 of Office Action

In response to the rejections as set forth in the current Office Action, Applicants place reliance upon all of the arguments set forth in the Amendment E submitted with RCE filed April 29, 2009. The following arguments are in response to the Examiner's points made in the present application. Applicants note that the Examiner has reiterated most of the arguments previously made by the Examiner in an attempt to support his rejection of the pending claims.

It is clear that under current statutes, rules, and case law, that the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, the Examiner must provide clear articulation of reasons why the claimed invention would have been obvious. See MPEP § 2143. There must be some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness. *In re Con*, 441 F.3d 977, 988, 78 USPQ.2d 1529, 1336 (Fed. Cir. 2006). See also, *KSR v. Teleflex*, 127 S. Ct. 1727, 1741 (citing to the Federal Circuit statement with approval). More specifically, the Examiner needs to articulate that there is some suggestion or motivation to modify the prior art, that there is a reasonable expectation of success and that the prior art reference (or references when combined) teach or suggest all the claim limitations. To simply identify all the elements in a claim in the prior art does not render a claim obvious. *Ruiz v. A.B. Chance Co.*, 357 F.3d 1270, 1275 (Fed. Cir. 2004).

In the present case, the Examiner has failed to provide a *prima facie* case of obviousness under 35 U.S.C. § 103(a) based on the Examiner's assertion that one ordinarily skilled in the art would modify Buchman by "cherry picking" individual

elements from at least seven other references to obtain that which is disclosed and claimed in the present application, WITHOUT having the benefit of the present application in front of that person ordinarily skilled in the art. Applicants assert that when properly construed, Buchman and the references cited by the Examiner fail to teach or suggest all the limitations of the present invention. Moreover, the Examiner has not provided any reason why one skilled in the art would modify Buchman in the first instance to obtain the present invention.

Admissions by Examiner

The Examiner has admitted that Buchman does not disclose several limitations required in the present application. Specifically, the Examiner admits that Buchman fails to disclose:

1. "Buchman et al. are silent in teaching areas of structural weakness located intermediate said fold in said first and second ends of said hood." (See Office Action, pg. 4, lines 8-9).
2. "Buchman et al. are silent in teaching wherein the hood and the bag are made from a single sheet of web material." (See Office Action, pg. 5, lines 6-7).
3. "Claims 148, 169, 179, 187, 212, and 214 further differ from the combination in reciting wherein the distal portion of the skirt is coupled to a backing strip and wherein said backing strip is coupled to said sheet of web material." (See Office Action, pg. 7, lines 13-15). (Note: The cited claims are the independent claims of the present application.)
4. "Regarding Claims 154, 205, 206, and 210, Buchman et al. are silent in explicitly teaching wherein the inside surface of the skirt includes predetermined area having a releasable adhesive material thereon." (See Office Action, pg. 8, lines 18-20).

Applicants submit that since Buchman does not have at least the above-admitted limitations, one ordinarily skilled in the art of providing a resealable bag for filling with

food product and methods would not be compelled to look to Buchman in the first instant.

Applicants submit that the Examiner's suggestion to make the combination of the eight references as identified by the Examiner, has been taken from the Applicants' own Specification (using hindsight), which is improper.

Each independent claim (Claims 148, 169, 179, 187, 212, and 214) of the present application include limitations that are not disclosed, taught or suggested in the combination required in each of the claims of the present application. The limitations include, among other elements:

a single sheet of web material 10, including a hood 11 (Figs. 1, 3, 4, 42-45, and 59).

first and second areas of structural weakness 12.

the hood defines a top of the bag.

interlockable tracks of a reclosable fastener 20 structure extending into the hood toward the top of the reusable bag above said areas of structural weakness.

a backing strip extending below the lower portion of the inside surface of the skirt structures and adhesively joined to the inside surface of said skirt structure.

the skirt structure is coupled to the sheet of web material of the hood and to one of the panels of the sheet of web material comprising the resealable bag.

Buchman clearly shows that the hood 60 in his disclosure is a separate piece of material and not formed with the bag from a single sheet of web material as required by each of the independent claims of the present application. Further, the Examiner cites Buchman for teaching perforations and cites Fig. 7, item 60 in para. 0067 of Buchman. Applicants submit that Fig. 7 of Buchman shows a SEPARATE HOOD 60 and DOES NOT illustrate any perforations. In fact, Buchman does not show perforations in any of the figures. Accordingly, Buchman can't be cited for teaching perforations (structural weakness) below the zipper assembly as required of each of the independent claims of the

present application.

The Examiner has not articulated any reason why one ordinarily skilled in the art would select Buchman for modification as suggested by the Examiner to obtain that which is disclosed and claimed in the present application. One ordinarily skilled in the art would not have the present application available to him (or her) as the Examiner had in the present case to look for single elements in the prior art as did the Examiner in the present Office Action.

On page 4 of the Office Action, the Examiner states after admitting that Buchman fails to teach areas of structural weakness that Buchman teaches using perforations to facilitate removal of the tamper evidence structure (Fig. 7, item 65 in para. 0067).

In response, Applicants submit that the Examiner is mischaracterizing what is disclosed in Buchman. Item 65 of Buchman is a first enclosure as described in para. 0032 of Buchman. Further, there is no item 65 shown in Fig. 7 of Buchman. As described in para. 0067 of Buchman, item 60 is a tamper evident-structure which is sealed to sealing flanges 37 and 39. There are no perforations or statement of structural weakness. As previously stated in the April 29, 2009 Amendment E, none of the figures of Buchman illustrate any perforations. The Examiner's assertion that Buchman teaches perforations is merely speculative as to where the alleged perforations are located. Such speculation is not *prima facie* obviousness.

The Examiner again cites Stolmeier et al. and McMahon for teaching the reclosable fasteners are above the area of structural weakness. Again, Applicants submit that the Examiner is mischaracterizing that which is disclosed in Stolmeier et al. and McMahon. Stolmeier teaches a separate hood 60, much like Buchman, and therefore the structural weaknesses are not in the single sheet web material required in each of the independent claims of the present application.

McMahon, in Fig. 19 cited by the Examiner illustrates the bottom of the bag and the perforations positioned above the reclosable feature. Such orientation is completely

opposite of what is required in each of the independent claims of the present application.

Applicants note that McMahon specifically describes the embodiment illustrated in Fig. 19 as the bottom of the package. (See col. 6, lines 46-55). Accordingly, the Examiner's comment on page 23, para. 15 of the Office Action is not correct that the McMahon reference is "only upside down," McMahon seals the bag at the bottom and therefore the weaker structure is above the zipper assembly contrary to what is disclosed and claimed in the present application.

Accordingly, Applicants submit that even if Buchman was modified by Stolmeier and/or McMahon as suggested by the Examiner, it would not result in that which is disclosed and claimed in the present application. All of the limitations of the present application would not be provided by the combination of Buchman, Stolmeier, and McMahon as suggested by the Examiner.

On page 5 of the Office Action, after the Examiner admits that Buchman is silent in teaching that the hood and the bag are made from a single sheet of web material, the Examiner cites again May, Belmont, McMahon, and Weeks to support a single sheet of web material limitation required in each of the independent claims of the present application. As stated above and in the previous (April 29, 2009) Amendment E, McMahon and May if combined with Buchman would not result in that which is disclosed and claimed in the present application. The Belmont and Weeks references are new in the present application but even they fall short of supporting the Examiner's assertions. Neither Weeks nor Belmont teach a hood having a first and second areas of structural weakness located intermediate a fold and said first and second ends of the hood as required in the present application. Further, Weeks' perforations are above the closure structure shown in Fig. 4 of Weeks NOT below as disclosed and claimed in the present application. The Examiner's statement that to make a hood and bag of Buchman from a single sheet of web material would have been an obvious matter of choice or design is pure speculation. There is no suggestion in Buchman that a single sheet should be used

nor that perforations are needed or desired. Accordingly, one ordinarily skilled in the art would not look to combine Buchman with McMahon, May, Belmont, and/or Weeks as suggested by the Examiner.

On page 7 of the Office Action after the Examiner admits that each of the independent claims of the present application differ from the combination in reciting wherein the distal portion of the skirt is coupled to the backing strip and wherein said backing strip is coupled to said sheet of web material, the Examiner states:

As disclosed by Applicants, the backing strip is bonded to the web material after the bag is filled for the purpose of closing the bag. Buchman et al. teach wherein an opening is provided between the side of the bag and the reclosable fastener for purpose of filling the bag with food product and then seal said opening portion by sealing the bag to the extending skirt of the fastener. (para. 0065). Therefore, to modify the previous combination of references and include a backing strip that adheres to the skirt for the same purpose of closing the bag after filling would have been an obvious matter of design to one having ordinary skill in the art.

Applicants submit that each of the independent claims of the present application are apparatus claims and not method claims. Therefore, the Examiner's couching of his argument as to when the backing strip is bonded to the web material as support for his suggested combination of the cited pieces of prior art is inappropriate. All the elements of the independent claims of the present application, covering an apparatus, must be met by the suggested combination of elements to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a). The sequence of construction of the claimed apparatus is not relevant to whether or not the Examiner's suggested combination of prior art is obvious since the claimed apparatus is not a method.

On page 8, after the Examiner admits that Buchman et al. are silent in explicitly teaching "wherein the inside surface of the skirt includes a predetermined area having a releasable adhesive material thereon cites May and Buchman to support his conclusion that "Therefore, it would have been obvious to use a multiple laminate film with at least

one layer comprising a tear path in providing a peelable seal for a purpose of insuring the freshness of the product and to insure to the consumer that the product has not been tampered with."

In response, Applicants again submit that May and Buchman both require at least two web materials to form their bags. Neither teach the use of a single sheet of web material to form a hood over the resealable zipper apparatus and the bag as disclosed and claimed in the present application.

Applicants submit that the Examiner is relying on hindsight to make the above obviousness rejection of the cited claims under 35 U.S.C. § 103(a). In other words, the Examiner is merely using the present application searching the words of the various elements cited in each of the claims of the present application to find pieces of prior art that recite such same elements. However, the Examiner has not provided why one ordinarily skilled in the art without having the benefit of the present application in front of him, would select the same elements identified in the at least seven pieces of prior art used by the Examiner in the present Office Action.

Applicants believe that the Examiner is basing the rejections under 35 U.S.C. § 103(a) on the mere identification in the prior art of individual components of claimed limitations in the present application. The Examiner has not made particular findings as to the reason a skilled artisan, with no knowledge of the claimed invention, would have selected the components for a combination in the matter claimed in the present application.

Applicants submit that all the words in the claim must be considered in judging the patentability of a claim against the prior art. See MPEP § 2143.03. Further, since the Examiner has to rely on elements from eleven different prior art documents (Buchman, Stolmeier, McMahon, Belmont, Weeks, Provan, May, Malin, Tilman, Hayashi, Thomas), it does not render the claims of the present application *prima facie* obvious. See MPEP § 2143.01 VI.

A reclosable food bag recited in each of the independent claims of the present application, considered as a whole, would not have been obvious in view of Buchman and/or the other pieces of prior art. The rejection of independents Claims 148, 169, 179, 187, 212, and 214 over Buchman in view of the other prior art references under 35 U.S.C. § 103(a) is improper. Therefore, Claims 148, 169, 179, 187, 212, and 214 are patentable.

Dependent Claims 152-155, 157- 160, 164-166, and 216 which depend from independent Claim 148; dependent Claim 217 which depends from independent Claim 169; dependent Claim 218 which depends from independent Claim 179; dependent Claims 188-191, 193-211 which dependent from independent Claim 187; dependent Claim 213 which depends from independent Claim 212, and dependent Claim 215 which depends from independent Claim 214, are also patentable. See 35 U.S.C. § 112, para. 4. The Applicants respectfully request withdrawal of the rejection of Claims 148, 152-155, 157-160, 164-166, 169, 179, 187-190, 193-197, 201-203, and 205-218 under 35 U.S.C. § 103(a).

Response to Paragraph 7 of Office Action

On page 11, para. 7 of the Office Action, the Examiner has rejected Claims 191-192 under 35 U.S.C. § 103(a) as being unpatentable over the references applied to Claims 148, 152-155, 157-160, 164-166, 169, 179, 187-190, 193-197, 201-203, and 205-218 above, and in further in view of Tilman (US Patent No. 5,024,537).

In response, Applicants note that Claims 191 and 192 depend from independent Claim 187. Further, Applicants have cancelled Claim 192 and have amended Claim 191 to address the 35 U.S.C. § 112, rejection discussed above. Since Applicants believe that independent Claim 187 is patentable over the cited art, the claims that depend from such independent claims are also patentable. 35 U.S.C. § 112, para. 4.

Moreover, Applicants submit that the reference to Tilman cited by the Examiner as teaching a tape structure which also extends beyond the skirt structure of the reclosable

fastener and to which the sheet of web material has been secured does not change the Applicants' assertion that the combination of prior art references cited by the Examiner would result in that which is disclosed and claimed in the present application. Applicants note that as shown in Fig. 2 of Tilman that the independently formed zipper assemblies when attached to the bag material 30 do not include a hood nor is there any teaching or suggestion in Tilman that a hood encloses the zipper assembly. Again, the Examiner cited Tilman for the single purpose of the tape structure without regard to its relationship to the other elements required in each of the independent claims of the present application. Accordingly, Applicants submit that one ordinarily skilled in the art without having the benefit of the present application in front of him would not look to Tilman to provide the elements cited by the Examiner in Tilman to combine with Buchman.

Accordingly, Applicants respectfully request that the Examiner withdraw his rejection of Claim 191 under 35 U.S.C. § 103(a).

Response to Paragraph 8 of Office Action

On page 13, para. 8 of the Office Action, the Examiner has rejected Claims 161-163, 167, 198-200, and 204 under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to Claims 148, 152-155, 157-160- 164-166, 168, 179, 187-190, 193-197, 201-203, and 205-218 above, and in further view of Hayashi (US Patent No. 6,074,097).

In response, Applicants note that Claims 161-163 and 167 depend from independent Claim 148 and Claim 198-200 and 204 depend from independent Claim 187. Applicants reiterate their comments concerning the prior art cited in para. 6 of the Office Action as set forth above, and as if set forth fully herein. Since Applicants believe that independent Claim 148 and independent Claim 187 are patentable over the cited art, the claims that depend from such independent claims are also patentable. Accordingly, since Claims 161-163 and 167 are dependent from independent Claim 148 and 198-200 and

204 depend from independent Claim 187, such dependent claims are also patentable. 35 U.S.C. § 112, para. 4. Accordingly, Applicants respectfully request the withdrawal of the rejection of Claims 161-163, 167, 198-200, and 204 under 35 U.S.C. § 103(a).

Response to Paragraph 9 of Office Action

On page 15, para. 9 of the Office Action, the Examiner has rejected Claims 148, 152-155, 157-160, 164-166, 169, 179, 187-190, 193-197, 201-203, and 205-218 under 35 U.S.C. § 103(a) as being unpatentable over Thomas et al. (US Patent No. 6,148,588) in view of Buchman et al. (US Patent Pub. No. 20010053253) and in view of Stolmeier et al. (US Patent No. 6,257,763), McMahon (US Patent No. 6,138,439), Belmont et al. (US Patent No. 6,327,754), Weeks (US Patent No. 5,092,684), Provan (US Patent No. 6,286,189), May (US Patent No. 5,725,312), and Malin (US Patent No. 6,183,134).

In this rejection, the Examiner attempts to combine the disclosure of Thomas et al. in view of Buchman et al. to web together with the Stolmeier, McMahon, Belmont, Weeks, Provan, May, and Malin references cited above.

The Examiner admits that Thomas does not disclose a hood structure and cited Buchman as providing a hood structure. However, neither Thomas nor Buchman teach or suggest or even state that it is desired to have a hood and bag made from a single web material.

Thomas clearly shows that there is no hood and no hood formed with the bag from a single sheet of web material as required by each of the independent claims of the present application.

Applicants reiterate their comments with respect to Buchman et al., Stolmeier et al., Provan, McMahon, Belmont, Weeks, Provan, May, and Malin as set forth above as if fully set forth herein. Applicants reiterate that Buchman teaches a separate hood and contrary to the Examiner's assertion, Buchman does not teach perforations to facilitate removal of the hood and Stolmeier also teaches a separate hood and therefore any

structural weaknesses taught by Stolmeier are not in a single sheet of web material as required in each of the independent claims of the present application. The Examiner's citation to McMahon is also misdirected since McMahon teaches in Fig. 19 that is the bottom of the bag that has perforations positioned above the reclosable feature. Such orientation is completely opposite of that which is required in each of the independent claims of the present application. Reconfiguring McMahon to meet the limitations of the present application would make McMahon inoperative for its intended purpose and therefore is not an appropriate reference to support an obviousness rejection.

The Examiner further cites Thomas for teaching a tamper evidence on the skirt structure used to separate the skirt structures. (Citing col. 3, lines 56-65).

Applicants submit that Thomas does not have a skirt structure as disclosed in the present application. The element identified by the Examiner as a skirt structure in Thomas is described in Thomas as being fins 30, 34 which are made out of the same material as the reclosable fastener 23. Further, the fin structure 30, 34 define ribs 36, 38. It is the ribs of Thomas that are attached to the bag sides and not the fins. (See at least Figs. 4 and 7 of Thomas). In contrast, the present application discloses skirts 16 that comprise two strips of pieces of plastic film that have been sealed directly to the bag sides in one embodiment and in another embodiment one of the pieces of the skirt material coupled to a backing strip which itself is attached to one side of the bag. (See at least Figs. 3 and 43 of the present application as originally filed).

For example, Claim 148 specifically states:

... said skirt structure each includes a distal portion, one of said distal portion being coupled to said front end of said hood and said first side panel, and the other of said distal portions being coupled to said second end of said hood;

Since the hood and the bag are of the same single piece of web material, the skirt structure is directly sealed to the bag. The Examiner's statement in para. 18 of the Office Action is not correct.

The Examiner further states that since Thomas does not teach a hood structure that the hood taught by Buchman can be relied on teach the concept of a hood for purposes of providing tamper evidence.

Applicants submit that Thomas does not require nor does it suggest that a hood structure should be applied to provide tamper evidence. Thomas already discloses a tamper evidence structure as element 40 (See Fig. 4 of Thomas and col. 6, lines 56-61) where Thomas states that "To provide tamper evidence, the lowermost ends of the first and second fins 30 and 34 are joined to each other along a line of weakness 40 to effectively create a single fin comprised of the first and second fins 30 and 34."

Accordingly, one ordinarily skilled in the art would not look to modify Thomas for purposes of tamper evidence by adding a separate hood structure as taught by Buchman and as suggested by the Examiner. Adding a Buchman hood which is a separate structure to Thomas would be a duplication of tamper evidence structure and further does not provide a bag and hood structure composed of a single web material as required in each of the independent claims of the present application.

The Examiner's suggestion to add a separate Buchman hood to Thomas' device as a tamper evidence structure would require elimination of the Thomas tamper evidence device 40 or add the Buchman hood to Thomas tamper evidence device 40 thereby adding costs.

The Examiner's believe that multiple tamper evidence structures do not obviate obviousness is wrong in the instant case because the present application does not disclose or claim multiple tamper evidence structures. Applicants argue that combining Thomas and Buchman would duplicate structure (multiple tamper evidence structures) which would add costs and/or eliminate an element of a reference. One ordinarily skilled in the art would not look to combine references that would add costs to his design. In either case that is not *prima facie* obviousness as to what is disclosed and claimed in the present application.

Applicants submit that the Examiner is relying on hindsight to make the above obviousness rejections of the cited claims under 35 U.S.C. § 103(a). Further, the Examiner has, during the prosecution of this application, used elements and features from at least eleven different references to support the rejection of the Applicants' claims. Applicants believe that the Examiner is basing the rejections on the mere identification in the prior art of individual components of claimed limitations in the present application. The Examiner has not made particular findings as to the reason a skilled artisan, with no knowledge of the claimed invention, would have selected the components for a combination in the matter claimed in the present application. Applicants submit that all the words in the claim must be considered in judging the patentability of a claim against the prior art. See MPEP §2143.03. Further, since the Examiner has to rely on elements from eleven different prior art documents it does not render the claims of the present application *prima facie* obvious since the Examiner is ignoring limitation in the present claims and/or eliminating features and/or mischaracterizing elements of the cited prior art that makes the prior art inoperative for its intended purpose. See MPEP §2143.01VI.

The reclosable food bag recited in each of the independent claims of the present application, considered as a whole, would not have been obvious in view of Thomas and/or the other nine prior art references. The rejection of independent Claims 148, 169, 179, 187, 212, and 214 over Thomas in view of the other five prior art references under 35 U.S.C. § 103(a) is improper. Therefore, Claims 148, 169, 179, 187, 212, and 214 are patentable.

Dependent Claims 152-155, 157-160, 164-166, and 216 which depend from independent Claim 148; dependent Claim 217 which depends from independent Claim 169; dependent Claim 218 which depends from independent Claim 179; dependent Claims 188-197, 201-203, and 205-211 which depend from independent Claim 187; dependent Claim 213 which depends from independent Claim 212; and dependent Claim 215 which depends from independent Claim 214, are also patentable. See 35 U.S.C. §

112, para. 4.

The Applicants respectfully request withdrawal of the rejection of Claims 148, 152-155, 157-160, 164-166, 169, 179, 187-197, 201-203, and 205-218 under 35 U.S.C. § 103(a).

Response to Paragraph 10 of Office Action

On page 21, para. 10 of the Office Action, the Examiner has rejected Claims 191-192 under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to Claims 148, 152-155, 157-160, 164-166, 169, 179, 187-190, 193-197, 201-203, 205-218, above, and in further view of Tilman (US Patent No. 5,024,537), for the reasons given above in para. 7.

In response, Applicants reiterate their comments to the Examiner's reasons given in para. 7 of the Office Action which can be found on page 26 of this Amendment. Accordingly, Applicants respectfully request that the Examiner withdraw his rejection of Claim 191 under the cited prior art since Claim 191 depends from independent Claim 187 which Applicants believe is patentable over the cited prior art. See 35 U.S.C. § 112, para. 4.

Response to Paragraph 11 of Office Action

On page 22, para. 11 of the Office Action, the Examiner has rejected Claims 161-163, 167, 198-200, and 204 under 35 U.S.C. § 103(a) as being unpatentable over the references as applied to Claims 148, 152-155, 157-160, 164-166, 169, 179, 187-190, 193-197, 201-203, and 205-218, above in para. 9, and in further view of Hayashi (US Patent No. 6,074,097).

In response, Applicants note that Claims 161-163 and 167 depend from independent Claim 148 and Claim 198-200 and 204 depend from independent Claim 187. Applicants reiterate their comments concerning the prior art cited in para. 6 of the Office Action as set forth above, and as if set forth fully herein. Since Applicants believe that

independent Claim 148 and independent Claim 187 are patentable over the cited art, the claims that depend from such independent claims are also patentable. Accordingly, since Claims 161-163 and 167 are dependent from independent Claim 148 and 198-200 and 204 depend from independent Claim 187, such dependent claims are also patentable. 35 U.S.C. § 112, para. 4. Accordingly, Applicants respectfully request the withdrawal of the rejection of Claims 161-163, 167, 198-200, and 204 under 35 U.S.C. § 103(a).

Response to Arguments

On pages 22-30 of the Office Action, the Examiner comments with respect to arguments made by the Applicants in the April 29, 2009 Amendment E. Applicants submit that they have responded or countered the Examiner's response to arguments in the various sections of their response to the rejections in the present application.

* * *

It is submitted that each outstanding rejection to the application has been overcome, and that the application is in a condition for allowance. The Applicant respectfully requests consideration and allowance of all the pending claims.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

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